

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 14-cv-10572

v

Honorable Thomas L. Ludington
Magistrate Judge Patricia Morris

MARVIN E. MCELROY and JACQUELINE A.
MCELROY,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

On February 7, 2014, Plaintiff United States filed a complaint against Defendants to collect the amount due on a promissory note. ECF No. 1. The promissory note at issue as allegedly executed in 1978 by Defendant Marvin E. McElroy to secure a loan authorized under Title IV-B of the Higher Education Act of 1965, 20 U.S.C. § 1701 *et seq.* by the U.S. Department of Education.

On June 6, 2014, the United States filed a motion for summary judgment against Defendant Marvin McElroy, who did not respond to the motion. ECF No. 13.

On August 7, 2014, Magistrate Judge Patricia Morris issued a report recommending that Plaintiff's motion for summary judgment be granted. Judge Morris found that the United States had "met its burden of establishing that Defendant signed a promissory note of which the Government is the present owner and that the note is in default." ECF No. 17 at 4. Moreover, Judge Morris noted that Marvin McElroy had "completely failed to meet [his] burden to respond

and show that there is a disputed issue of fact with regard to the nonexistence, extinguishment or variance in payment of the obligation.” *Id.* (quotations omitted).

Although the Magistrate Judge’s report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the Magistrate Judge’s report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge’s report and recommendation (ECF No. 17) is **ADOPTED**.

It is further **ORDERED** that Plaintiff’s motion for summary judgment (ECF No. 13) is **GRANTED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: September 8, 2014

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 8, 2014.

s/Tracy A. Jacobs
TRACY A. JACOBS